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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8
9 Geraldine Austin,

No. CV-24-02771-PHX-JAT (ESW)

10 Plaintiff,

11 v.
12 **ORDER**
13 Maricopa County Sheriff's Office, et al.,
14 Defendants.

15 Plaintiff Geraldine Austin, who is confined in Maricopa County's Estrella Jail, has
16 filed a pro se civil rights Complaint (Doc. 1)¹ and an Application to Proceed In Forma
17 Pauperis (Doc. 2). The Court will dismiss the Complaint with leave to amend.

18 **I. Application to Proceed In Forma Pauperis and Filing Fee**

19 The Court will grant Plaintiff's Application to Proceed In Forma Pauperis. 28
20 U.S.C. § 1915(a). Plaintiff must pay the statutory filing fee of \$350.00. 28 U.S.C.
21 § 1915(b)(1). The Court will not assess an initial partial filing fee. *Id.* The statutory filing
22 fee will be collected monthly in payments of 20% of the previous month's income credited
23 to Plaintiff's trust account each time the amount in the account exceeds \$10.00. 28 U.S.C.
24 § 1915(b)(2). The Court will enter a separate Order requiring the appropriate government
25 agency to collect and forward the fees according to the statutory formula.

26

27
28 ¹ Although Plaintiff did not identify a basis for jurisdiction, she is suing state actors
for a purported violation of her federal constitutional rights. Therefore, the Court will
construe her claim as having been asserted pursuant to 42 U.S.C. § 1983.

1 **II. Statutory Screening of Prisoner Complaints**

2 The Court is required to screen complaints brought by prisoners seeking relief
 3 against a governmental entity or an officer or an employee of a governmental entity. 28
 4 U.S.C. § 1915A(a). The Court must dismiss a complaint or portion thereof if a plaintiff
 5 has raised claims that are legally frivolous or malicious, that fail to state a claim upon which
 6 relief may be granted, or that seek monetary relief from a defendant who is immune from
 7 such relief. 28 U.S.C. § 1915A(b)(1)–(2).

8 A pleading must contain a “short and plain statement of the claim *showing* that the
 9 pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2) (emphasis added). While Rule 8 does
 10 not demand detailed factual allegations, “it demands more than an unadorned, the-
 11 defendant-unlawfully-harmed-me accusation.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678
 12 (2009). “Threadbare recitals of the elements of a cause of action, supported by mere
 13 conclusory statements, do not suffice.” *Id.*

14 “[A] complaint must contain sufficient factual matter, accepted as true, to ‘state a
 15 claim to relief that is plausible on its face.’” *Id.* (quoting *Bell Atlantic Corp. v. Twombly*,
 16 550 U.S. 544, 570 (2007)). A claim is plausible “when the plaintiff pleads factual content
 17 that allows the court to draw the reasonable inference that the defendant is liable for the
 18 misconduct alleged.” *Id.* “Determining whether a complaint states a plausible claim for
 19 relief [is] . . . a context-specific task that requires the reviewing court to draw on its judicial
 20 experience and common sense.” *Id.* at 679. Thus, although a plaintiff’s specific factual
 21 allegations may be consistent with a constitutional claim, a court must assess whether there
 22 are other “more likely explanations” for a defendant’s conduct. *Id.* at 681.

23 But as the United States Court of Appeals for the Ninth Circuit has instructed, courts
 24 must “continue to construe *pro se* filings liberally.” *Hebbe v. Pliler*, 627 F.3d 338, 342
 25 (9th Cir. 2010). A “complaint [filed by a *pro se* prisoner] ‘must be held to less stringent
 26 standards than formal pleadings drafted by lawyers.’” *Id.* (quoting *Erickson v. Pardus*, 551
 27 U.S. 89, 94 (2007) (per curiam)).

28 . . .

1 If the Court determines that a pleading could be cured by the allegation of other
 2 facts, a pro se litigant is entitled to an opportunity to amend a complaint before dismissal
 3 of the action. *See Lopez v. Smith*, 203 F.3d 1122, 1127-29 (9th Cir. 2000) (en banc). The
 4 Court will dismiss Plaintiff's Complaint for failure to state a claim, but because it may
 5 possibly be amended to state a claim, the Court will dismiss it with leave to amend.

6 **III. Complaint**

7 In her one-count Complaint, Plaintiff alleges that her safety is being threatened by
 8 conditions at the Estrella Jail. Plaintiff is suing the Maricopa County Sheriff's Office,
 9 Correctional Health Services, the Estrella Jail, and Maricopa County Sheriff's Office Jails
 10 for money damages.

11 Plaintiff alleges that there is mold in the water pipes and toilet bowls and "all over"
 12 the walls at the Estrella Jail. According to Plaintiff, the "gross out" mold where she eats,
 13 drinks, and sleeps is causing detainees to get sick and is making her worried for her health.
 14 Plaintiff claims that she is suffering as a result of the mold and that this condition has
 15 "[a]ffected [her] medical care."

16 **IV. Failure to State a Claim**

17 To prevail in a § 1983 claim, a plaintiff must show that (1) acts by the defendants
 18 (2) under color of state law (3) deprived her of federal rights, privileges or immunities and
 19 (4) caused her damage. *Thornton v. City of St. Helens*, 425 F.3d 1158, 1163-64 (9th Cir.
 20 2005) (quoting *Shoshone-Bannock Tribes v. Idaho Fish & Game Comm'n*, 42 F.3d 1278,
 21 1284 (9th Cir. 1994)). In addition, a plaintiff must allege that she suffered a specific injury
 22 as a result of the conduct of a particular defendant and she must allege an affirmative link
 23 between the injury and the conduct of that defendant. *Rizzo v. Goode*, 423 U.S. 362, 371-
 24 72, 377 (1976).

25 **A. Maricopa County Sheriff's Office**

26 The Maricopa County Sheriff's Office is not a proper defendant because it is a "non-
 27 jural entity." *Melendres v. Arpaio*, 784 F.3d 1254, 1260 (9th Cir. 2015) (citing *Braillard*
 28 *v. Maricopa County*, 232 P.3d 1263, 1269 (Ariz. Ct. App. 2010)). In Arizona, the

1 responsibility of operating jails and caring for prisoners is placed by law upon the sheriff.
 2 *See* Ariz. Rev. Stat. §§ 11-441(A)(5), 31-101. A sheriff's office is simply an administrative
 3 creation of the county sheriff to allow him to carry out his statutory duties and is not a
 4 "person" amenable to suit pursuant to § 1983. Accordingly, the Court will dismiss
 5 Defendant Maricopa County Sheriff's Office.

6 **B. Maricopa County Sheriff's Office Jails, Estrella Jail, and Correctional
 7 Health Services**

8 Section 1983, 42 U.S.C., imposes liability on any "person" who violates an individual's federal rights while acting under color of state law. Congress intended
 9 municipalities and other local government units to be included among those persons to
 10 whom § 1983 applies. *Monell v. Dep't of Soc. Servs. of N.Y.*, 436 U.S. at 689-90 (1978).

11 The Estrella Jail and Maricopa County Sheriff's Office Jails are buildings or
 12 collection of buildings, not a people or legally created entities capable of being sued. Thus,
 13 the Court will dismiss Defendants Estrella Jail and Maricopa County Sheriff's Office Jails.

14 Defendant Correctional Health Services is an administrative subdivision of
 15 Maricopa County. It is not a municipal corporation, local governing body, or private
 16 corporation, and, therefore, it is not a "person" amenable to suit under § 1983. Thus, the
 17 Court will dismiss Defendant Correctional Health Services.

18 Moreover, even if Plaintiff had sued Maricopa County, her allegations do not
 19 support a claim. A municipality may not be sued solely because an injury was inflicted by
 20 its employees or agents. *Long v. County of Los Angeles*, 442 F.3d 1178, 1185 (9th Cir.
 21 2006). The actions of individuals may support municipal liability only if the employees
 22 were acting pursuant to an official policy or custom of the municipality. *Botello v.
 23 Gammick*, 413 F.3d 971, 978-79 (9th Cir. 2005). A § 1983 claim against a municipal
 24 defendant "cannot succeed as a matter of law" unless a plaintiff: (1) contends that the
 25 municipal defendant maintains a policy or custom pertinent to the plaintiff's alleged injury;
 26 and (2) explains how such policy or custom caused the plaintiff's injury. *Sadoski v. Mosley*,
 27 435 F.3d 1076, 1080 (9th Cir. 2006) (affirming dismissal of a municipal defendant pursuant
 28

1 to Fed. R. Civ. P. 12(b)(6)). Plaintiff has failed to allege facts to support that Maricopa
 2 County maintained a specific policy or custom that resulted in a violation of Plaintiff's
 3 federal constitutional rights and has failed to explain how her injuries were caused by any
 4 municipal policy or custom.

5 **V. Leave to Amend**

6 For the foregoing reasons, the Court will dismiss Plaintiff's Complaint for failure to
 7 state a claim upon which relief may be granted. Within 30 days, Plaintiff may submit a
 8 first amended complaint to cure the deficiencies outlined above. The Clerk of Court will
 9 mail Plaintiff a court-approved form to use for filing a first amended complaint. If Plaintiff
 10 fails to use the court-approved form, the Court may strike the amended complaint and
 11 dismiss this action without further notice to Plaintiff.

12 Plaintiff must clearly designate on the face of the document that it is the "First
 13 Amended Complaint." The first amended complaint must be retyped or rewritten in its
 14 entirety on the court-approved form and may not incorporate any part of the original
 15 Complaint by reference. Plaintiff may include only one claim per count.

16 A first amended complaint supersedes the original Complaint. *Ferdik v. Bonzelet*,
 17 963 F.2d 1258, 1262 (9th Cir. 1992); *Hal Roach Studios v. Richard Feiner & Co.*, 896 F.2d
 18 1542, 1546 (9th Cir. 1990). After amendment, the Court will treat the original Complaint
 19 as nonexistent. *Ferdik*, 963 F.2d at 1262. Any cause of action that was raised in the
 20 original Complaint and that was voluntarily dismissed or was dismissed without prejudice
 21 is waived if it is not alleged in a first amended complaint. *Lacey v. Maricopa County*, 693
 22 F.3d 896, 928 (9th Cir. 2012) (en banc).

23 If Plaintiff files an amended complaint, she must write short, plain statements telling
 24 the Court: (1) the constitutional right she believes was violated; (2) the name of the
 25 Defendant who violated the right; (3) exactly what that Defendant did or failed to do;
 26 (4) how the action or inaction of that Defendant is connected to the violation of Plaintiff's
 27 constitutional right; and (5) what specific injury Plaintiff suffered because of that
 28 Defendant's conduct. *See Rizzo*, 423 U.S. at 371-72, 377.

1 Plaintiff must repeat this process for each person she names as a Defendant. If
 2 Plaintiff fails to affirmatively link the conduct of each named Defendant with the specific
 3 injury suffered by Plaintiff, the allegations against that Defendant will be dismissed for
 4 failure to state a claim. **Conclusory allegations that a Defendant or group of**
 5 **Defendants has violated a constitutional right are not acceptable and will be**
 6 **dismissed.**

7 Plaintiff should note that a pretrial detainee has a right under the Due Process Clause
 8 of the Fourteenth Amendment to be free from punishment prior to an adjudication of guilt.
 9 *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). Pretrial detainees are “entitled to ‘adequate
 10 food, clothing, shelter, sanitation, medical care, and personal safety.’” *Alvarez-Machain*
 11 *v. United States*, 107 F.3d 696, 701 (9th Cir. 1996) (quoting *Hoptowit v. Ray*, 682 F.2d
 12 1237, 1246 (9th Cir. 1982)). To state a claim of unconstitutional conditions of confinement
 13 against an individual defendant, a pretrial detainee must allege facts that show:

- 14 (i) the defendant made an intentional decision with respect to
 15 the conditions under which the plaintiff was confined;
- 16 (ii) those conditions put the plaintiff at substantial risk of
 17 suffering serious harm; (iii) the defendant did not take
 18 reasonable available measures to abate that risk, even though a
 19 reasonable official in the circumstances would have
 20 appreciated the high degree of risk involved—making the
 consequences of the defendant’s conduct obvious; and (iv) by
 not taking such measures, the defendant caused the plaintiff’s
 injuries.

21 *Gordon v. County of Orange*, 888 F.3d 1118, 1125 (9th Cir. 2018).

22 Whether the conditions and conduct rise to the level of a constitutional violation is
 23 an objective assessment that turns on the facts and circumstances of each particular case.
 24 *Id.; Hearns v. Terhune*, 413 F.3d 1036, 1042 (9th Cir. 2005). However, “a de minimis
 25 level of imposition” is insufficient. *Bell*, 441 U.S. at 539 n.21. In addition, the “mere lack
 26 of due care by a state official’ does not deprive an individual of life, liberty, or property
 27 under the Fourteenth Amendment.” *Castro v. County of Los Angeles*, 833 F.3d 1060, 1071
 28 (9th Cir. 2016) (quoting *Daniels v. Williams*, 474 U.S. 327, 330-31 (1986)). Thus, a

1 plaintiff must “prove more than negligence but less than subjective intent—something akin
 2 to reckless disregard.” *Id.*

3 **VI. Warnings**

4 **A. Release**

5 If Plaintiff is released while this case remains pending, and the filing fee has not
 6 been paid in full, Plaintiff must, within 30 days of her release, either (1) notify the Court
 7 that she intends to pay the unpaid balance of her filing fee within 120 days of her release
 8 or (2) file a non-prisoner application to proceed in forma pauperis. Failure to comply may
 9 result in dismissal of this action.

10 **B. Address Changes**

11 Plaintiff must file and serve a notice of a change of address in accordance with Rule
 12 83.3(d) of the Local Rules of Civil Procedure. Plaintiff must not include a motion for other
 13 relief with a notice of change of address. Failure to comply may result in dismissal of this
 14 action.

15 **C. Possible “Strike”**

16 Because the Complaint has been dismissed for failure to state a claim, if Plaintiff
 17 fails to file an amended complaint correcting the deficiencies identified in this Order, the
 18 dismissal may count as a “strike” under the “3-strikes” provision of 28 U.S.C. § 1915(g).
 19 Under the 3-strikes provision, a prisoner may not bring a civil action or appeal a civil
 20 judgment in forma pauperis under 28 U.S.C. § 1915 “if the prisoner has, on 3 or more prior
 21 occasions, while incarcerated or detained in any facility, brought an action or appeal in a
 22 court of the United States that was dismissed on the grounds that it is frivolous, malicious,
 23 or fails to state a claim upon which relief may be granted, unless the prisoner is under
 24 imminent danger of serious physical injury.” 28 U.S.C. § 1915(g).

25 **D. Possible Dismissal**

26 If Plaintiff fails to timely comply with every provision of this Order, including these
 27 warnings, the Court may dismiss this action without further notice. *See Ferdik*, 963 F.2d
 28

1 at 1260-61 (a district court may dismiss an action for failure to comply with any order of
2 the Court).

3 **IT IS ORDERED:**

4 (1) Plaintiff's Application to Proceed In Forma Pauperis (Doc. 2) is **granted**.

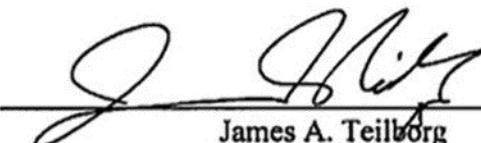
5 (2) As required by the accompanying Order to the appropriate government
6 agency, Plaintiff must pay the \$350.00 filing fee and is not assessed an initial partial filing
7 fee.

8 (3) The Complaint (Doc. 1) is **dismissed** for failure to state a claim. Plaintiff
9 has **30 days** from the date this Order is filed to file a first amended complaint in compliance
10 with this Order.

11 (4) If Plaintiff fails to file an amended complaint within 30 days, the Clerk of
12 Court must, without further notice, enter a judgment of dismissal of this action with
13 prejudice that states that the dismissal may count as a "strike" under 28 U.S.C. § 1915(g)
14 and deny any pending unrelated motions as moot.

15 (5) The Clerk of Court must mail Plaintiff a court-approved form for filing a civil
16 rights complaint by a prisoner.

17 Dated this 13th day of January, 2025.

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22 James A. Teilborg
23 Senior United States District Judge
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**Instructions for a Prisoner Filing a Civil Rights Complaint
in the United States District Court for the District of Arizona**

1. **Who May Use This Form.** The civil rights complaint form is designed to help incarcerated persons prepare a complaint seeking relief for a violation of their federal civil rights. These complaints typically concern, but are not limited to, conditions of confinement. **This form should not be used to challenge your conviction or sentence.** If you want to challenge a state conviction or sentence, you should file a petition under 28 U.S.C. § 2254 for a writ of habeas corpus by a person in state custody. If you want to challenge a federal conviction or sentence, you should file a motion under 28 U.S.C. § 2255 to vacate sentence in the federal court that entered the judgment.
2. **The Form.** **Local Rule of Civil Procedure (LRCiv) 3.4 provides that complaints by incarcerated persons must be filed on the court-approved form.** The form must be typed or neatly handwritten. The form must be completely filled in to the extent applicable. All questions must be answered clearly and concisely in the appropriate space on the form. If needed, you may attach additional pages, **but no more than fifteen additional pages**, of standard letter-sized paper. You must identify which part of the complaint is being continued and number all pages. If you do not fill out the form properly, you will be asked to submit additional or corrected information, which may delay the processing of your action. You do not need to cite law.
3. **Your Signature.** You must tell the truth and sign the form. If you make a false statement of a material fact, you may be prosecuted for perjury.
4. **The Filing and Administrative Fees.** The total fees for this action are \$405.00 (\$350.00 filing fee plus \$55.00 administrative fee). If you are unable to immediately pay the fees, you may request leave to proceed in forma pauperis. Please review the “Information for Prisoners Seeking Leave to Proceed with a (Non-Habeas) Civil Action in Federal Court In Forma Pauperis Pursuant to 28 U.S.C. § 1915” for additional instructions.
5. **Original and Judge's Copy.** You must send an **original plus one copy** of your complaint and of any other documents submitted to the Court. You must send one additional copy to the Court if you wish to have a file-stamped copy of the document returned to you. All copies must be identical to the original. Copies may be legibly handwritten. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**
6. **Where to File.** You should file your complaint in the division **where you were confined when your rights were allegedly violated.** See LRCiv 5.1(a) and 77.1(a). If you were confined in Maricopa, Pinal, Yuma, La Paz, or Gila County, file in the Phoenix Division. If you were confined in Apache, Navajo, Coconino, Mohave, or Yavapai County, file in the Prescott Division. If you were confined in Pima, Cochise, Santa Cruz, Graham, or Greenlee County, file in the Tucson Division. **Unless you are an inmate housed at an Arizona Department of Corrections facility that participates in electronic filing, mail the original and one copy of the complaint with the \$405 filing and administrative fees or the application to proceed in forma pauperis to:**

Phoenix & Prescott Divisions:
 U.S. District Court Clerk
 U.S. Courthouse, Suite 130
 401 West Washington Street, SPC 10
 Phoenix, Arizona 85003-2119

OR

Tucson Division:
 U.S. District Court Clerk
 U.S. Courthouse, Suite 1500
 405 West Congress Street
 Tucson, Arizona 85701-5010

7. **Change of Address.** You must immediately notify the Court and the defendants in writing of any change in your mailing address. **Failure to notify the Court of any change in your mailing address may result in the dismissal of your case.**

8. **Certificate of Service.** You must furnish the defendants with a copy of any document you submit to the Court (except the initial complaint and application to proceed in forma pauperis). Each original document (except the initial complaint and application to proceed in forma pauperis) must include a certificate of service on the last page of the document stating the date a copy of the document was mailed to the defendants and the address to which it was mailed. *See Fed. R. Civ. P. 5(a), (d).* Any document received by the Court that does not include a certificate of service may be stricken. **This section does not apply to inmates housed at an Arizona Department of Corrections facility that participates in electronic filing.**

A certificate of service should be in the following form:

I hereby certify that a copy of the foregoing document was mailed
 this _____ (month, day, year) to:

Name: _____
 Address: _____

Attorney for Defendant(s)

 (Signature)

9. **Amended Complaint.** If you need to change any of the information in the initial complaint, you must file an amended complaint. The amended complaint must be written on the court-approved civil rights complaint form. You may file one amended complaint without leave (permission) of Court within 21 days after serving it or within 21 days after any defendant has filed an answer, whichever is earlier. *See Fed. R. Civ. P. 15(a).* Thereafter, you must file a motion for leave to amend and lodge (submit) a proposed amended complaint. LRCiv 15.1. In addition, an amended complaint may not incorporate by reference any part of your prior complaint. LRCiv 15.1(a)(2). **Any allegations or defendants not included in the amended complaint are considered dismissed.** All amended complaints are subject to screening under the Prison Litigation Reform Act; screening your amendment will take additional processing time.

10. **Exhibits.** You should not submit exhibits with the complaint or amended complaint. Instead, the relevant information should be paraphrased. You should keep the exhibits to use to support or oppose a motion to dismiss, a motion for summary judgment, or at trial.

11. **Letters and Motions.** It is generally inappropriate to write a letter to any judge or the staff of any judge. The only appropriate way to communicate with the Court is by filing a written pleading or motion.

12. Completing the Civil Rights Complaint Form.

HEADING:

1. Your Name. Print your name, prison or inmate number, and institutional mailing address on the lines provided.
2. Defendants. If there are **four or fewer** defendants, print the name of each. If you name **more than four** defendants, print the name of the first defendant on the first line, write the words “and others” on the second line, and attach an additional page listing the names of **all** of the defendants. Insert the additional page after page 1 and number it “1-A” at the bottom.
3. Jury Demand. If you want a jury trial, you must write “JURY TRIAL DEMANDED” in the space below “CIVIL RIGHTS COMPLAINT BY A PRISONER.” Failure to do so may result in the loss of the right to a jury trial. A jury trial is not available if you are seeking only injunctive relief.

Part A. JURISDICTION:

1. Nature of Suit. Mark whether you are filing the complaint pursuant to 42 U.S.C. § 1983 for state, county, or city defendants; “*Bivens v. Six Unknown Federal Narcotics Agents*” for federal defendants; or “other.” If you mark “other,” identify the source of that authority.
2. Location. Identify the institution and city where the alleged violation of your rights occurred.
3. Defendants. Print all of the requested information about each of the defendants in the spaces provided. If you are naming more than four defendants, you must provide the necessary information about each additional defendant on separate pages labeled “2-A,” “2-B,” etc., at the bottom. Insert the additional page(s) immediately behind page 2.

Part B. PREVIOUS LAWSUITS:

You must identify any other lawsuit you have filed in either state or federal court while you were a prisoner. Print all of the requested information about each lawsuit in the spaces provided. If you have filed more than three lawsuits, you must provide the necessary information about each additional lawsuit on a separate page. Label the page(s) as “2-A,” “2-B,” etc., at the bottom of the page and insert the additional page(s) immediately behind page 2.

Part C. CAUSE OF ACTION:

You must identify what rights each defendant violated. The form provides space to allege three separate counts (**one violation per count**). If you are alleging more than three counts, you must provide the necessary information about each additional count on a separate page. Number the additional pages “5-A,” “5-B,” etc., and insert them immediately behind page 5. Remember that you are limited to a total of fifteen additional pages.

1. **Counts**. You must identify which civil right was violated. **You may allege the violation of only one civil right per count.**
2. **Issue Involved**. Check the box that most closely identifies the issue involved in your claim. **You may check only one box per count.** If you check the box marked "Other," you must identify the specific issue involved.
3. **Supporting Facts**. After you have identified which civil right was violated, you must state the supporting facts. Be as specific as possible. You must state what each individual defendant did to violate your rights. If there is more than one defendant, you must identify which defendant did what act. You also should state the date(s) on which the act(s) occurred, if possible.
4. **Injury**. State precisely how you were injured by the alleged violation of your rights.
5. **Administrative Remedies**. You must exhaust any available administrative remedies before you file a civil rights complaint. *See 42 U.S.C. § 1997e.* Consequently, you should disclose whether you have exhausted the inmate grievance procedures or administrative appeals for each count in your complaint. If the grievance procedures were not available for any of your counts, fully explain why on the lines provided.

Part D. REQUEST FOR RELIEF:

Print the relief you are seeking in the space provided.

SIGNATURE:

You must sign your name and print the date you signed the complaint. Failure to sign the complaint will delay the processing of your action. Unless you are an attorney, you may not bring an action on behalf of anyone but yourself.

FINAL NOTE

You should follow these instructions carefully. Failure to do so may result in your complaint being stricken or dismissed. All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number the pages.

Name and Prisoner/Booking Number

Place of Confinement

Mailing Address

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

_____,
(Full Name of Plaintiff)

Plaintiff,

v.

(1) _____,
(Full Name of Defendant)

(2) _____,

(3) _____,

(4) _____,

Defendant(s).

CASE NO. _____
(To be supplied by the Clerk)

**CIVIL RIGHTS COMPLAINT
BY A PRISONER**

- Original Complaint
- First Amended Complaint
- Second Amended Complaint

Check if there are additional Defendants and attach page 1-A listing them.

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

- 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
- 28 U.S.C. § 1331; *Bivens v. Six Unknown Federal Narcotics Agents*, 403 U.S. 388 (1971).
- Other: _____.

2. Institution/city where violation occurred: _____.

B. DEFENDANTS

1. Name of first Defendant: _____ . The first Defendant is employed as: _____ at _____ .
 (Position and Title) (Institution)

2. Name of second Defendant: _____ . The second Defendant is employed as: _____
 as: _____ at _____ .
 (Position and Title) (Institution)

3. Name of third Defendant: _____ . The third Defendant is employed as: _____ at _____ .
 (Position and Title) (Institution)

4. Name of fourth Defendant: _____ . The fourth Defendant is employed as: _____ at _____ .
 (Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? Yes No

2. If yes, how many lawsuits have you filed? _____. Describe the previous lawsuits:

a. First prior lawsuit:

1. Parties: _____ v. _____
2. Court and case number: _____
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

b. Second prior lawsuit:

1. Parties: _____ v. _____
2. Court and case number: _____
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

c. Third prior lawsuit:

1. Parties: _____ v. _____
2. Court and case number: _____
3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION

COUNT I

1. State the constitutional or other federal civil right that was violated: _____

2. **Count I.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities Mail Access to the court Medical care
 Disciplinary proceedings Property Exercise of religion Retaliation
 Excessive force by an officer Threat to safety Other: _____.

3. Supporting Facts. State as briefly as possible the FACTS supporting Count I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

5. Administrative Remedies:

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No

b. Did you submit a request for administrative relief on Count I? Yes No

c. Did you appeal your request for relief on Count I to the highest level? Yes No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

COUNT II

1. State the constitutional or other federal civil right that was violated: _____
_____.
_____.

2. **Count II.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities Mail Access to the court Medical care
 Disciplinary proceedings Property Exercise of religion Retaliation
 Excessive force by an officer Threat to safety Other: _____.

3. Supporting Facts. State as briefly as possible the FACTS supporting Count II. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

5. Administrative Remedies.

a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No

b. Did you submit a request for administrative relief on Count II? Yes No

c. Did you appeal your request for relief on Count II to the highest level? Yes No

d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

COUNT III

1. State the constitutional or other federal civil right that was violated: _____
_____.
_____.

2. **Count III.** Identify the issue involved. Check **only one**. State additional issues in separate counts.

Basic necessities Mail Access to the court Medical care
 Disciplinary proceedings Property Exercise of religion Retaliation
 Excessive force by an officer Threat to safety Other: _____.

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Count III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

5. **Administrative Remedies.**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? Yes No
- b. Did you submit a request for administrative relief on Count III? Yes No
- c. Did you appeal your request for relief on Count III to the highest level? Yes No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Counts, answer the questions listed above for each additional Count on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
DATE

SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space, you may attach no more than fifteen additional pages. But the form must be completely filled in to the extent applicable. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages.